

Federal Communications Commission

DA 04-2054

**Before the
Federal Communications Commission
Washington, D.C. 20554**

JUL 12 5 27 AM '04

In the Matter of)	
)	
Amendment of Section 73.202(b),)	MB Docket No. 02-136
Table of Allotments,)	RM-10458
FM Broadcast Stations.)	RM-10663
(Arlington, The Dalles, Moro, Fossil, Astoria,)	RM-10667
Gladstone, Portland, Tillamook, Coos Bay,)	RM-10668
Springfield-Eugene, Manzanita and Hermiston,)	
Oregon, and Covington, Trout Lake, Shoreline,)	
Bellingham, Forks, Hoquiam, Aberdeen,)	
Walla Walla, Kent, College Place, Long Beach)	
and Ilwaco, Washington))	

REPORT AND ORDER

Adopted: July 7, 2004

Released: July 9, 2004

By the Assistant Chief, Audio Division:

1. The Audio Division has before it the *Notice of Proposed Rule Making* in this proceeding.¹ The *Notice* was issued in response to Petition for Rule Making filed jointly by Mid-Columbia Broadcasting, Inc., licensee of Station KMCQ, Channel 285C3, The Dalles, Oregon, and First Broadcasting Company, L.P. ("Joint Petitioners"). In response to the *Notice*, Two Hearts Communications, LLC ("Two Hearts"), New Northwest Broadcasters LLC ("New Northwest"), and Triple Bogey, LLC, MCC Radio, LLC and KDUX Acquisition, LLC ("Triple Bogey") filed Counterproposals. The Joint Petitioners along with Saga Broadcasting Corporation ("Saga Broadcasting") filed an Amended Proposal. City of Gig Harbor filed Comments. Mercer Island School District filed Comments, Reply Comments and a Supplement. Two Hearts, Bay Cities Building Company ("Bay Cities"), Saga Broadcasting, Joint Petitioners, Triple Bogey and Westend Radio, LLC filed Reply Comments and related pleadings. For the reasons discussed below, we are modifying the licenses of Station KMCQ, The Dalles, Oregon, and Station KAST-FM, Astoria, Oregon, to specify a new community of license. To accommodate the Station KAST-FM proposal, we are substituting channels at five communities. We are also allotting new channels to five communities.

Background

The Dalles, Covington, Arlington, Moro, Oregon, and Trout Lake, Kent, Bellingham and Forks, Washington

2. Originally, the Joint Petitioners proposed the reallocation of Channel 283C3 from The Dalles to Covington, Oregon, modification of its Station KMCQ license to specify Covington as the community of license. In order to provide service to unserved and underserved areas resulting from the proposed reallocation to Covington, the Joint Petitioners proposed the allotment of Channel 283C2 to Moro, Oregon, Channel 261C2 to Arlington, Oregon, and Channel 226A to Trout Lake, Washington. In response to the

¹ *Arlington, The Dalles and Moro, Oregon, and Covington and Trout Lake, Washington*, 17 FCC Rcd 10678 (MB 2002).

Notice and filed by the comment date in this proceeding, the Joint Petitioners submitted an Amended Proposal. In the Amended Proposal, the Joint Petitioners proposed the substitution of Channel 283C2 for Channel 283C3 at The Dalles, reallocation of Channel 283C2 to Kent, Washington, and modification of the Station KMCQ license to specify operation on Channel 283C2 at Kent. In order to accommodate the Channel 283C2 reallocation to Kent, the Joint Petitioners proposed the substitution of Channel 281C for Channel 282C at Bellingham, Washington, and modification of the Station KAFE license to specify operation on Channel 281C. Saga Broadcasting, licensee of Station KAFE had agreed to the channel substitution and, in the event that a Channel 281C allotment cannot be coordinated with Canada at full Class C facilities, utilize a directional antenna pattern that would protect all Canadian allotments. In turn, a Channel 281C substitution at Bellingham required the substitution of Channel 288A for Channel 280A at Forks, Washington, and modification of the Station KLLM license to specify operation on Channel 288A. Alco Services, Inc., licensee of Station KLLM had agreed to the proposed channel substitution and the Joint Petitioners had agreed to reimburse the licensee for the costs of changing its Station KLLM channel at Forks.

3. In *Taccoa, Sugar Hill and Lawrenceville, Georgia*, we announced that we carefully review any counterproposal filed by the initial rulemaking proponent and require an explanation as to why the counterproposal could not have been advanced in the original petition for rule making.² In this instance, the Joint Petitioners were unable to reach an agreement with Saga Broadcasting regarding the modification of its facilities and the necessary coordination with the Canadian government prior to the filing of the initial Petition for Rule Making.³ On the basis of a July 29, 2002, technical exhibit from a Canadian engineering firm, Saga Broadcasting now believes that Channel 281C at Bellingham can be coordinated with Canada as a specially negotiated short-spaced allotment with regard to Station CHQM-FM, Vancouver, British Columbia, and two vacant Canadian allotments. Contrary to a suggestion by Triple Bogey in its Motion to Sever Counterproposal, it was not incumbent upon the Joint Petitioners to file, as its original Petition for Rule Making, a reallocation of Channel 283C2 to Kent based on the possibility that Saga Broadcasting may eventually agree to a channel substitution and/or directional antenna pattern at Bellingham. In view of the above, the Joint Petitioner's Amended Proposal could have been appropriately considered in the context of this proceeding. However, as explained below, Saga Broadcasting subsequently withdrew its consent to utilize a directional antenna to accommodate Channel 283C2 at Kent. Thereafter, the Joint Petitioners withdrew the Amended Proposal and requested that the originally proposed reallocation to Covington be considered in this proceeding.

Walla Walla and College Place, Washington, and Hermiston, Oregon

4. Two Hearts, licensee of Station KHSS, Channel 264C3, Walla Walla, Washington, filed a Counterproposal proposing the substitution of Channel 264C2 for Channel 264C3, reallocation of Channel 264C2 to College Place, Washington, and modification of its Station KHSS license to specify operation on Channel 264C2 at College Place. In order to accommodate this reallocation and upgrade, Two Hearts proposes the substitution of Channel 261A for Channel 263A at Hermiston, Oregon, and modification of the

² *Taccoa, Sugar Hill and Lawrenceville, Georgia*, 16 FCC Rcd 21191 (MMB 2001).

³ See *Working Arrangement for Allotment and Assignment of FM Broadcasting Channels under the Agreement between the Government of the United States of America and the Government of Canada relating to the FM Broadcasting Service* (Feb. 25, 1991, amended July 9, 1997).

Station KQFM license to specify operation on Channel 261A at Hermiston. The channel substitution at Hermiston also requires that Station KQFM relocate its transmitter site. In this regard, Two Hearts has not obtained the consent of Westend Radio, LLC, licensee of Station KQFM agreeing to the relocation of the Station KQFM transmitter site. The Commission will not require a station to involuntarily relocate its transmitter site.⁴ For this reason, we will dismiss the Two Hearts Counterproposal.

Gig Harbor and Mercer Island, Washington

5. The Mercer Island School District and Peninsula School District No. 401 ("Mercer Island") and the City of Gig Harbor ("Gig Harbor") filed Opposition Comments. These parties are the respective licensees of Class D FM Station KMIH, Mercer Island, Washington, and FM Translator K283AH, Gig Harbor, Washington. Both parties oppose the Joint Petitioner's original proposal to reallocate Channel 283C3 to Covington, Washington, as well as the Amended Proposal to reallocate Channel 283C2 to Kent, Washington. Either reallocation proposal would cause interference to both stations. While we recognize the valuable service being provided by these stations, both of these facilities are secondary services and neither is protected against interference from primary services.⁵ In the event that either KMIH or K283AH interferes with a new primary service in Covington or Kent, then the interfering station would be required to suspend operation.⁶ In regard to the service currently being provided by Stations KMIH and K283AH, we note that the respective service areas also receive service from 23 FM stations and 5 AM stations.

6. In its Comments, Mercer Island proposes that instead of the proposed reallocation of Channel 283C2 to Kent, we should allot "a special allocation granting KMIH(FM) the equivalent of Class A status and protection in accordance with the Class A minimum distance separations." We will not make such an allotment. Section 73.207 of the rules requires that any FM allotment proposal meet the prescribed minimum distance separation requirements.⁷ A Channel 283A allotment at Mercer Island would not do so.⁸ Similarly, we will not allot a channel to the Table of FM Allotments on the basis of the current operation of Station KMIH purportedly not causing prohibited overlap with any FM station. Supplemental showings will not be accepted for the purpose of determining interference or prohibited contour overlap between FM stations.⁹

Astoria, Gladstone, Portland, Tillamook, Springfield-Eugene, Coos Bay and Manzanita, Oregon, and Long Beach and Ilwaco, Washington

7. In its Counterproposal, New Northwest, licensee of Station KAST-FM, Channel 225C1, Astoria, Oregon, proposes the substitution of Channel 226C3 for Channel 225C1 at Astoria, reallocation of Channel

⁴ *Claremore, Locust Grove and Nowata, Oklahoma, and Barling, Arkansas*, 4 FCC Rcd 2181 (1989); *see also* *Beaumont and Big Bear Lake, California*, 4 FCC Rcd 7505 (MMB 1989).

⁵ *Amendment of the Commission's Rules Concerning FM Translator Stations*, 5 FCC Rcd 7212 (1990); *Creation of a Low Power Radio Service*, 14 FCC Rcd 2471 (1991).

⁶ *See* 47 C.F.R. § 74.1203 and 47 C.F.R. § 73.512(d).

⁷ 47 C.F.R. § 73.207.

⁸ *See* *Liberty, New York*, 8 FCC Rcd 4085 (MMB 1993).

⁹ *See* *Amendments of Parts 73 and 74 of the Commission's Rules to Permit Certain Changes in Broadcast Facilities Without a Construction Permit*, 12 FCC Rcd 12371, 12402 (1999).

226C3 to Gladstone, Oregon, and modification of its Station KAST license to specify operation on Channel 226C3 at Gladstone. The proposed Channel 226C3 allotment at Gladstone conflicts with the proposed Channel 226A allotment at Trout Lake as set forth in the *Notice*. To accommodate Channel 226C3 at Gladstone, New Northwest proposes interrelated channel substitutions in five communities in Oregon and Washington.

Aberdeen, Shoreline, Bellingham, Forks, Hoquiam, Trout Lake, Washington, and Arlington, Fossil and Moro, Oregon

8. In its Counterproposal, Triple Bogey proposes the substitution of Channel 283C2 for Channel 284C2 at Aberdeen, Washington, reallocation of Channel 283C2 to Shoreline, Oregon, and modification of the Station KDUX license to specify operation on Channel 283C2 at Shoreline. Triple Bogey also proposes the substitution of Channel 284C2 for Channel 237C3 at Hoquiam, Washington, and modification of the Station KXXX license to specify operation on Channel 284C2. To accommodate these proposals, Triple Bogey proposes a series of allotment actions involving eight other communities. One of these proposals is the Channel 281C substitution at Bellingham originally proposed by the Joint Petitioners.

Discussion

9. At the outset, we are substituting Channel 226C3 for Channel 225C1 at Astoria, Oregon, reallocating Channel 226C3 to Gladstone, Oregon, and are modifying the Station KAST-FM license to specify operation on Channel 226C3 at Gladstone.¹⁰ This reallocation will result in a preferential arrangement of allotments as required by the Commission in *Modification of FM and TV Authorizations to Specify a New Community of License* ("Community of License").¹¹ In reaching this determination, we compared the existing versus the proposed arrangement of allotments using the FM allotment priorities set forth in *Revision of FM Assignment Policies and Procedures*.¹² This reallocation will provide a first local service to Gladstone while Astoria will continue to be served by four local services. This will also result in a net service gain of 1,579,463 persons. Except for 4,510 persons receiving only four aural services and 132 persons receiving only three aural services, the population losing service will continue to be served by more than five services.¹³

10. We recognize that Station KAST-FM will now serve 80 percent of the Portland Urbanized Area. In this regard, we are concerned with the potential migration of stations from lesser-served rural areas to well-served urban areas. For this reason, we will not blindly apply a first local service preference of the FM allotment priorities when a station seeks to reallocate its channel to a suburban community in or near an

¹⁰ The reference coordinates for the Channel 226C3 allotment at Gladstone, Oregon, are 45-32-27 and 122-33-51.

¹¹ 4 FCC Rcd 4870 (1989), *recon.* 5 FCC Rcd 7094 (1990).

¹² 90 FCC2d 88 (1988). The FM allotment priorities are: (1) First fulltime aural service; (2) Second fulltime aural service; (3) First local service; and (4) Other public interest matters. Co-equal weight is given to Priorities (2) and (3).

¹³ The Commission has considered five or more reception services to be "abundant." *Family Broadcasting Group*, 53 RR 2d 662 (Rev. Bd. 1983), *rev. denied*. FCC 83-559 (Comm'n Nov. 29, 1983); *see also LaGrange and Rollingwood, Texas*, 10 FCC Rcd 3337 (1995).

Urbanized Area. In making such a determination, we apply existing precedents.¹⁴ In essence, we consider the extent the station will provide service to the entire Urbanized Area, the relative populations of the suburban and central city, and, most important of all, the independence of the suburban community.

10. In this situation, Gladstone, with a population of 11,438 persons, is entitled to consideration as a first local service. This population total is substantial and supports consideration as a first local service.¹⁵ With respect to coverage of the Urbanized Area, we note that as a Class C3 facility, Station KAST-FM will invariably cover a significant portion of the Portland Urbanized Area and this coverage does preclude favorable consideration as a first local service. In any event, the Commission has stated that these factors have less significance than evidence of independence.¹⁶

11. Consistent with the factors set forth in *Faye and Richard Tuck, supra*, we conclude that Gladstone is not dependent upon the Portland Urbanized Area for its existence. Gladstone is located eleven miles from Portland and located in a different county. Gladstone is an incorporated community with an elected mayor and city council. The Gladstone local government provides police fire and public works services. Gladstone has its own schools and public library. In addition to its own recreation facilities, Gladstone has its own commercial establishments and health facilities. Approximately 33 percent of the Gladstone residents work in Gladstone. Gladstone has its own zip code and post office.

12. In order to accommodate the Channel 226C3 allotment at Gladstone, we are making two channel substitutions. First, we are substituting Channel 230C2 for Channel 229C at Portland, Oregon, and are modifying the Station KPDQ-FM license to specify operation on Channel 230C at a different transmitter site.¹⁷ Salem Media of Oregon, Inc., licensee of Station KPDQ-FM has agreed to the proposed channel substitution and site change. New Northwest has agreed to reimburse Salem Media of Oregon, Inc. for the costs in implementing this facilities modification. The modification of the Station KPDQ-FM license will result in net service gain to 1,568,191 persons, while the area losing service will continue to receive service from at least five stations. Second, we are substituting Channel 227C for Channel 226C at Springfield-Eugene, Oregon, and are modifying the Station KGNU license to specify operation on Channel 227C.¹⁸ McKenzie River Broadcasting Co., Inc., licensee of Station KGNU has agreed to the channel substitution and New Northwest has agreed to reimburse licensee for the costs of changing the Station KGNU channel.

13. In order to accommodate Channel 227C at Springfield-Eugene, we are substituting Channel 225A for Channel 228A at Coos Bay, Oregon, and modifying the Station KDCQ license to specify operation on Channel 225A.¹⁹ In order to do so, we issued an *Order to Show Cause* directed to Bay Cities Building Company, Inc., licensee of Station KDCQ to show cause why its license should not be modified to

¹⁴ See e.g. *Huntington Broadcasting Co. v. FCC*, 192 F. 2d 33 (D.C. Cir. 1951); *RKO General, Inc. (KFRC)*, 5 FCC Rcd 3222 (1990); *Faye and Richard Tuck*, 3 FCC Rcd 5374 (1988).

¹⁵ C.f. *Ada, Newcastle and Watonga, Oklahoma*, 11 FCC Rcd 16896 (MMB 1996); *Scotland Neck and Pinetops, North Carolina*, 7 FCC Rcd 5113 (MMB 1992).

¹⁶ *Headland, Alabama, and Chattahoochee, Florida*, 10 FCC Rcd 10352 (1995).

¹⁷ The reference coordinates for the Channel 230C2 allotment at Portland, Oregon, are 45-30-58 and 122-43-59.

¹⁸ The reference coordinates for the Channel 227C allotment at Springfield-Eugene, Oregon, are 44-00-04 and 123-06-45.

¹⁹ The reference coordinates for the Channel 225A allotment at Coos Bay, Oregon, are 43-21-15 and 124-14-34.

specify operation on Channel 225A in order to accommodate the Springfield-Eugene channel substitution and the reallocation of Channel 226C3 to Gladstone.²⁰ Bay Cities Building Company, Inc. did not respond to the *Order to Show Cause* and, in accordance with Section 1.87 of the rules, is deemed to have consented to this modification of its license.²¹

14. To accommodate the Channel 230C2 substitution at Portland, we are substituting Channel 232C3 for Channel 231C3 at Tillamook, Oregon, and modifying the Station KTEL-FM to specify operation on Channel 232C3.²² In order to make this channel substitution, we issued an *Order to Show Cause* directed to Oregon Eagle, Inc., licensee of Station KTEL-FM, to show cause why its license should not be modified to specify operation on Channel 232C3 in order to accommodate the Channel 230C2 substitution at Portland and the reallocation of Channel 226C3 to Gladstone.²³ Oregon Eagle, Inc. did not respond to the *Order to Show Cause* and, in accordance with Section 1.87 of the rules, is deemed to have consented to this modification of its license.

15. In order to accommodate the Channel 232C3 substitution at Tillamook and the Channel 226C3 reallocation at Gladstone, we are substituting Channel 224A for Channel 232A at Long Beach, Washington, and are modifying the Station KAQX license to specify operation on Channel 224A.²⁴ New Northwest is the licensee of Station KAQX and has agreed to this channel substitution.

16. Although not fatal to the proposal, the reallocation of Channel from Astoria to Gladstone will result in 4,510 persons having only four fulltime aural services and 132 persons having only 3 fulltime aural services. To address this loss of service, we are allotting Channel 228C3 to Manzanita, Oregon,²⁵ and Channel 259A to Ilwaco, Washington.²⁶ These actions will provide a first local service to Manzanita and a second local service to Ilwaco. New Northwest has agreed to apply for both of these allotments.

The Dalles, Oregon, and Covington and Kent, Washington

17. As stated earlier, the Joint Petitioners originally proposed the reallocation of Channel 283C3 from The Dalles to Covington, Oregon, and modification of the Station KMCQ license to specify Covington as the community of license. Subsequently, the Joint Petitioners submitted an Amended Proposal proposing the substitution of Channel 283C2 at The Dalles, Oregon, reallocation of Channel 283C2 to Kent, Washington, and modification of the Station KMCQ license to specify operation on Channel 283C2 at Kent. To accommodate the Channel 283C2 reallocation to Kent, the Joint Petitioners proposed the substitution of Channel 281C for Channel 282C at Bellingham, Washington, and modification of the Station KAFE license to specify operation on Channel 281C. The Canadian Government has not agreed to unlimited Class C operation on Channel 281C at the existing Station KAFE transmitter site. To this end, the Joint Petitioners

²⁰ *Arlington, Oregon, et al*, 19 FCC Rcd 3786 (MB 2004).

²¹ See 47 C.F.R. § 1.87.

²² The reference coordinates for the Channel 232C3 allotment at Tillamook, Oregon, are 45-27-59 and 123-55-11.

²³ *Arlington, Oregon, et al*, DA 04-582, released March 5, 2004.

²⁴ The reference coordinates for the Channel 224A allotment at Long Beach, Washington, are 46-18-51 and 124-03-07.

²⁵ The reference coordinates for the Channel 228C3 allotment at Manzanita, Oregon, are 45-41-05 and 123-54-38.

²⁶ The reference coordinates for the Channel 259A allotment at Ilwaco, Washington, are 46-18-32 and 124-02-31.

and Saga Broadcasting Corporation ("Saga Broadcasting"), licensee of Station KAFE, have entered into an agreement looking toward a specially negotiated short-spaced allotment by Station KAFE utilize a directional antenna protecting Canadian allotment at Powell River and Bralorne, British Columbia. In order to accommodate its Counterproposal proposing the reallocation of Channel 283C2 to Shoreline, Washington, and modification of its Station KDUX to specify operation on Channel 283C2 at Shoreline, Triple Bogey proposed the same Channel 281C substitution at Bellingham. Unlike the Joint Petitioners, Triple Bogey had not entered into an agreement with Saga Broadcasting looking toward the modification of the Station KAFE facilities to accommodate the Triple Bogey Counterproposal. To this end, we issued an *Order to Show Cause* directed to Saga Broadcasting to show cause why its license should be similarly modified to specify operation on Channel 281C to accommodate the Triple Bogey Counterproposal.²⁷ Triple Bogey was also requested to state whether it would pay the same consideration specified in the agreement between the Joint Petitioners and Saga Broadcasting.

18. New Northwest has also filed a Motion for Severance of Counterproposal requesting that its Counterproposal be processed independently in this proceeding. In this regard, New Northwest correctly notes that the only connection between its Counterproposal and the Triple Bogey Counterproposal and Joint Petitioners' original proposal was their separate proposals to allot Channel 226A to Trout Lake, Washington. To remove this conflict, New Northwest suggests the allotment of alternate Channel 236A to Trout Lake. As discussed below, we are allotting alternate Channel 236A to Trout Lake to remove the conflict with the New Northwest's proposed Channel 226C3 allotment at Gladstone. Even though there is no longer any conflict between the New Northwest Counterproposal and any proposal in this proceeding, it is not necessary to sever the New Northwest Counterproposal because this *Report and Order* grants the Counterproposal and terminates this proceeding.

19. In response to the *Order to Show Cause*, Saga Broadcasting withdrew its consent and stated that it would no longer agree to utilize a directional antenna to protect Canadian allotments. As a result, the Joint Parties withdrew their Amended Proposal and requested that we now consider the original proposal proposing the reallocation of Channel 283C3 from The Dalles to Covington, Washington, and modification of the Station KMCQ license to specify Covington as the community of license.

20. The withdrawal of the Saga Broadcasting consent to utilize a directional antenna in order to modify its Station KAFE license is fatal to the Triple Bogey Counterproposal. We will not require a licensee to involuntarily relocate its transmitter site or install a directional antenna.²⁸ Requiring a station to involuntarily install a directional antenna that would, in fact, protect certain allotments poses unique and significant administrative difficulties for the licensee, the initiating party, and the Commission staff. For this reason, we dismiss the Triple Bogey Counterproposal.

21. We are reallocating Channel 283C3 from The Dalles to Covington, Washington, and are modifying the Station KMCQ license to specify Covington as the community of license.²⁹ This will provide Covington (with a 2000 U.S. Census population of 13,081 persons) with a first local service while The

²⁷ *Arlington, Oregon, et al.*, DA 04-607, released March 12, 2004.

²⁸ *Wasilla, Anchorage and Sterling, Alaska*, 14 FCC Rcd 6263 (MMB 1999).

²⁹ The reference coordinates for the Channel 283C3 allotment at Covington, Washington, are 47-12-02 and 122-00-27.

Dalles will continue to receive local service from four stations. In addition to the fact that this reallocation will also result in a net service gain to 802,176 persons, this reallocation will also result in 1,362 persons receiving a second aural service. On the other hand, 143 persons in the area losing service will receive four aural services.³⁰ This is not fatal to the reallocation proposal.³¹ In any event, to address this loss of service, we are allotting two channels. First, we are allotting Channel 261C2 to Arlington, Oregon, as a first local service.³² Arlington is an incorporated community with a 2000 U.S. Census population of 524 persons. Second, we are allotting Channel 283C2 to Moro, Oregon, as a first local service.³³ Both communities have their own local government, local businesses and civic organizations as well its own post office and ZIP code. The Joint Petitioners also proposed the allotment of Channel 226A to Trout Lake, Washington. We are allotting alternate Channel 236A to Trout Lake.³⁴ The original Trout Lake proposal for Channel 226A was mutually exclusive with New Northwest's proposal for a Channel 226C3 allotment at Gladstone as a first local service.

22. We recognize that Covington is located within the Seattle Urbanized Area. As stated earlier, we are concerned with the potential migration of stations from lesser-served rural areas to well-served urban areas. To this end, we do not blindly apply a first local service preference of the FM Allotment Priorities when a station seeks to reallocate its channel to a suburban community in or near an Urbanized Area. Under the factors set forth in *Faye and Richard Tuck, supra*, the reallocation of Channel 283C3 to Covington is entitled to consideration as a first local service. The Covington population of 13,801 persons is substantial and supports consideration as a first local service. Station KMCQ will only provide a 70 dBu signal to 8.8 per cent of the Seattle Urbanized Area. Furthermore, Covington is not dependent upon the Seattle Urbanized Area for its existence. Covington is an incorporated community located 15 kilometers from Seattle and has its own local government and elected officials. Covington has its own fire and police departments, water and sanitation services, health services, civic organizations, and local businesses. In addition to its own recreation facilities, Covington has its own post office and ZIP code. Local schools are provided by the Kent School District, not the City of Seattle.

23. Triple Bogey has filed a Motion to Dismiss the Joint Petitioner's original proposal proposing the reallocation of Channel 283C3 to Covington. According to Triple Bogey, the original proposal cannot be revived after being abandoned and that such a procedure would be counter to "fundamental fairness" and the "efficient conduct of agency business." We disagree. In addition to being fatal to the Triple Bogey Counterproposal, the withdrawal of Saga Broadcasting's consent to utilize a directional antenna also precluded favorable action on the Amended Proposal filed by the Joint Petitioners. Contrary to the Triple Bogey assertion, permitting the Joint Petitioners to revive their original proposal along with the commitment to go forward with implementing this proposal is the most efficient means of resolving this allotment

³⁰ The Commission has considered five or more reception services to be "abundant." *Family Broadcasting Group*, 53 RR 2d 662 (Rev. Bd. 1983), *rev. denied* FCC 83-559 (Comm'n Nov. 29, 1983); *see also LaGrange and Rollingwood, Texas*, 10 FCC Rcd 3337 (1995).

³¹ *C.f. Clinton and Okarche, Oklahoma*, 14 FCC Rcd 3554 (MMB 1999) (granted proposed reallocation even though 10,369 persons would now receive four aural services).

³² The reference coordinates for the Channel 261C2 allotment at Arlington, Oregon, are 45-43-01 and 120-11-59.

³³ The reference coordinates for the Channel 283C2 allotment at Moro, Oregon, are 45-29-03 and 120-43-48.

³⁴ The reference coordinates for the Channel 236A allotment at Trout Lake, Washington, are 46-03-10 and 121-33-47.

proceeding. We see no procedural or public interest benefit in dismissing the proposal and then having the Joint Petitioners immediately refile an identical proposal. We also reject the contention that this procedure is fundamentally unfair. The Joint Petitioner proposal was set forth in the *Notice of Proposed Rule Making* in this proceeding, and all interested parties have been afforded an opportunity to comment on this proposal. Moreover, since the other proposals in this proceeding are being granted or dismissed for separate reasons, no party is being prejudiced by this procedure.

24. Accordingly, pursuant to authority contained in Sections 4(i), 5 (c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS ORDERED, That effective August 24, 2004, the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, IS AMENDED, with respect to the communities listed below, to read as follows:

<u>City</u>	<u>Channel No.</u>
Arlington, Oregon	261C2
Astoria, Oregon	----
Coos Bay, Oregon	225A
Gladstone, Oregon	226C3
Long Beach, Oregon	224A
Manzanita, Oregon	228C3
Moro, Oregon	283C2
Portland, Oregon	222C, 230C2, 238C, 246C, 254C1 258C1, 262C, 266C, 270C
Springfield-Eugene, Oregon	227C
Tillamook, Oregon	232C3
Covington, Washington	283C3
Ilwaco, Washington	259A
Long Beach, Washington	224A
Trout Lake, Washington	236A

25. IT IS FURTHER ORDERED, pursuant to Section 316(a) of the Communications Act of 1934, as amended, that the license of Mid-Columbia Broadcasting, Inc. Station KMCQ, Channel 283C3, The Dalles, Oregon, IS MODIFIED to specify operation on Channel 283C3 at Covington, Washington, subject to the following conditions:

- (a) Within 90 days of the effective date of this Order, the licensee shall file with the Commission a minor change application for construction permit (FCC Form 301) specifying the new facility;
- (b) Upon grant of the construction permit, program tests may be conducted in accordance with Section 73.1620 of the Commission's rules;
- (c) Nothing contained herein shall be construed to authorize a change in transmitter site or to avoid the necessity of filing an environmental assessment pursuant to Section 1.1307 of

the Commission's rules, unless the proposed facilities are categorically excluded from environmental processing.

26. IT IS FURTHER ORDERED, pursuant to Section 316(a) of the Communications Act of 1934, as amended, that the license of Salem Media of Oregon, Inc. for Station KPDQ-FM, Channel 229C, Portland, Oregon, IS MODIFIED, to specify operation on Channel 230C, subject to the following conditions:

- (a) Within 90 days of the effective date of this Order, the licensee shall file with the Commission a minor change application for construction permit (FCC Form 301) specifying the new facility;
- (b) Upon grant of the construction permit, program tests may be conducted in accordance with Section 73.1620 of the Commission's rules;
- (c) Nothing contained herein shall be construed to authorize a change in transmitter site or to avoid the necessity of filing an environmental assessment pursuant to Section 1.1307 of the Commission's rules, unless the proposed facilities are categorically excluded from environmental processing.

27. IT IS FURTHER ORDERED, pursuant to Section 316(a) of the Communications Act of 1934, as amended, that the license of McKenzie River Broadcasting Co., Inc. for Station KGNU, Channel 226C, Springfield-Eugene, Oregon, IS MODIFIED, to specify operation on Channel 227C, subject to the following conditions:

- (a) Within 90 days of the effective date of this Order, the licensee shall file with the Commission a minor change application for construction permit (FCC Form 301) specifying the new facility;
- (b) Upon grant of the construction permit, program tests may be conducted in accordance with Section 73.1620 of the Commission's rules;
- (c) Nothing herein shall be construed to authorize a change in transmitter site or to avoid the necessity of filing an environmental assessment pursuant to Section 1.1307 of the Commission's rules, unless the proposed facilities are categorically excluded from environmental processing.

28. IT IS FURTHER ORDERED, pursuant to Section 316(a) of the Communications Act of 1934, as amended, the license of Bay Cities Building Company, Inc. for Station KDCQ, Channel 228A, Coos Bay, Oregon, IS MODIFIED, to specify operation on Channel 225A, subject to the following conditions:

- (a) Within 90 days of the effective date of this Order, the licensee shall submit to the Commission a minor change application for construction permit (FCC Form 301) specifying the new facility;

(b) Upon grant of the construction permit, program tests may be conducted in accordance with Section 73.1620 of the Commission's rules;

(c) Nothing contained herein shall be construed to authorize a change in transmitter site or to avoid the necessity of filing an environmental assessment pursuant to Section 1.1307 of the Commission's rules, unless the proposed facilities are categorically excluded from environmental processing.

29. IT IS FURTHER ORDERED, pursuant to Section 316(a) of the Communications Act of 1934, as amended, the license of Oregon Eagle, Inc. for Station KTIL-FM, Channel 231C3, Tillamook, Oregon, IS MODIFIED, to specify operation on Channel 232C3, subject to the following conditions:

(a) Within 90 days of the effective date of this Order, the licensee shall submit to the Commission a minor change application for construction permit (FCC Form 301) specifying the new facility;

(b) Upon grant of the construction permit, program tests may be conducted in accordance with Section 73.1620 of the Commission's rules;

(c) Nothing contained herein shall be construed to authorize a change transmitter site or to avoid the necessity of filing an environmental assessment pursuant to Section 1.1307 of the Commission's rules, unless the proposed facilities are categorically excluded from environmental processing.

30. IT IS FURTHER ORDERED, pursuant to Section 316(a) of the Communications Act of 1934, as amended, the license of New Northwest Broadcasters LLC for Station KAQX, Channel 232A, Long Beach, Washington, IS MODIFIED, to specify operation on Channel 224A, subject to the following conditions:

(a) Within 90 days of the effective date of this Order, the licensee shall submit to the Commission a minor change application for construction permit (FCC Form 301), specifying the new facility;

(b) Upon grant of the construction permit, program tests may be conducted in accordance with Section 73.1620 of the Commission's rules;

(c) Nothing contained herein shall be construed to authorize a change in transmitter site or to avoid the necessity of filing an environmental assessment pursuant to Section 1.1307 of the Commission's rules, unless the proposed facilities are categorically excluded from environmental processing.

31. IT IS FURTHER ORDERED, pursuant to Section 316(a) of the Communications Act of 1934, as amended, the license of New Northwest Broadcasters, LLC for Station KAST-FM, Channel 225C1, Astoria, Oregon, IS MODIFIED, to specify operation on Channel 226C3 at Gladstone, Oregon, subject to the following conditions:

(a) Within 90 days of the effective date of this Order, the licensee shall submit to the Commission a minor change application for construction permit (FCC Form 301) specifying the new facility;

(b) Upon grant of the construction permit, program tests may be conducted in accordance with Section 73.1620 of the Commission's rules;

(c) Nothing contained herein shall be construed to authorize a change in transmitter site or to avoid the necessity of filing an environmental assessment pursuant to Section 1.1307 of the Commission's rules, unless the proposed facilities are categorically excluded from environmental processing.

32. IT IS FURTHER ORDERED. That the aforementioned Counterproposal filed by Triple Bogey, LLC, MCC Radio, LLC and KDUX Acquisition, LLC, IS DISMISSED.

33. Pursuant to Sections 1.1104(1)(k) and (2)(k) of the Commission's Rules, any party seeking a change in community of license of an FM or television allotment or an upgrade of an existing FM allotment, if the request is granted, must submit a rulemaking fee when filing the application to implement the change in community of license and/or upgrade. As a result of this proceeding, the licensees receiving an upgrade and/or change in community of license are required to submit a rulemaking fee in addition to the fee required for the application to affect the upgrade and/or change in community of license.

34. A filing window for the Channel 228C3 allotment at Manzanita, Oregon, the Channel 259A allotment at Ilwaco, Washington, Alabama, the Channel 261C2 allotment at Arlington, Oregon, the Channel 283C1 allotment at Moro, Oregon, and the Channel 236A allotment at Trout Lake, Washington, will not be opened at this time. Instead, the issue of opening these allotments for auction will be addressed by the Commission in a subsequent *Order*.

35. IT IS FURTHER ORDERED, That the Secretary shall send a copy of this *Report and Order* BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED, to:

Oregon Eagle, Inc.
P.O. Box 40
Tillamook, Oregon 97141

Bay Cities Building Company, Inc.
P.O. Box 478
Coos Bay, Oregon 97420

36. IT IS FURTHER ORDERED, That this proceeding IS TERMINATED.

37. For further information concerning this proceeding, contact Robert Hayne, Media Bureau, (202) 418-2177.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos
Assistant Chief, Audio Division
Media Bureau